THE BOMBAY COTTON CONTRACTS ACT, 1932

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Extent and operation.
3. Definitions.
4. Recognition.
5. Recognised association to have Board of Directors: Power to make by-laws.
6. Power of Board of Directors to make by-laws.
7. Publication of by-laws.
8. Void contracts.
9. [*Repealed.*]
10. [*Repealed.*]
11. Bar of suits and proceedings against officers, etc.
12. Savings.

*BOMBAY ACT No. IV OF 1932.[1]

[THE BOMBAY COTTON CONTRACTS ACT, 1932.]

[*28th October 1937.*]

Adapted and modified by the Adaptation of Indian Laws Order in Council.

Repealed in part by Bom. 17 of 1938.

An Act to provide for the better regulation and control of transactions in Cotton in Bombay.

WHEREAS it is expedient to provide for the better regulation and control of transactions in cotton and whereas the previous sanction of the Governor General required by sub-section (*3*) of section 80A of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows:—

5 and 6 Geo. V. c. 61.

1. This Act may be called the Bombay Cotton Contracts Act, 1932. Short title.

2. (*1*) This Act shall apply to the City of Bombay and the Island of Salsette. Extent and operation.

(*2*) It shall come into operation on such date as the [2][Provincial Government] may, by notification in the [3][*Official Gazette*], direct.

[4]* * * *

3. In this Act, unless there is anything repugnant in the subject or context, Definitions.

(*a*) "Bombay" means the City of Bombay and the Island of Salsette;

[5]* * * *

(*c*) "Board of Directors" means a board of directors of a recognised cotton association constituted under section 5 and acting through at least a quorum of their members at a meeting of that board duly called and constituted;

(*d*) "Certified godown" means a godown maintained by a cotton association for storing cotton certified under the by-laws af the association;

(*e*) "Contract" means a contract made or to be performed in whole or in part in Bombay relating to the sale or purchase of cotton and includes options in cotton, but does not include such contracts as the [2][Provincial Government] may, by notification in the [3][*Official Gazette*,] declare to be excluded from the provisions of this Act;

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*On the date on which an association is recognised under section 3 of the Bombay Forward Contracts Control Act, 1947, in the City of Bombay and the Island of Salsette in respect of cotton, this Act shall cease to have force in each area. (*Vide* Bom. 64 of 1947 s. 14 (*1*).)

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1932, Pt. V, pp. 139-140; for Proceedings in Council, *see* Bombay Legislative Council Debates, 1932, Vol. XXXV.

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[4] Sub-section (*3*) was deleted by Bom. 17 of 1938, s. 2 and First Sch.

[5] This clause was deleted, *ibid.*

(*f*) "Cotton Association" means any association, organisation or a body of individuals, whether incorporated or not, established or formed for the purpose of regulating and controlling business in the sale, purchase or other transactions in cotton;

(*g*) "Forward contract" means a contract for the delivery of cotton at some future date;

(*h*) "Option in cotton" means a contract made or to be performed in whole or in part in Bombay for the purchase or sale of a right to buy, or a right to sell or a right to buy or sell cotton in future, and includes a *teji*, a *mandi* or a *teji-mandi* in cotton;

(*i*) "Ready contract" means a contract in which immediate delivery of cotton is contemplated;

(*j*) "Recognised cotton association" means a cotton association which is for the time being recognised by the [1][Provincial Government], as provided in section 4.

Recognition.

4. (*1*) A cotton association, desirous of being recognised for the purposes of this Act, shall make an application in writing to the [1][Provincial Government] for such recognition and shall submit by-laws for the regulation and control of transactions in cotton and furnish such information in regard to such recognition as the [1][Provincial Government] may from time to time require.

(*2*) The [1][Provincial Government] may give or refuse such recognition.

(*3*) The [1][Provincial Government] shall refuse recognition unless—

(*a*) it is provided in the by-laws submitted by the cotton association under sub-section (*1*) that not less than one-fourth of the total number of the Board of Directors of the cotton association applying for recognition shall be growers of cotton to be appointed in the manner prescribed in the said by-laws and approved by the [1][Provincial Government]; and

(*b*) the [1][Provincial Government] is satisfied that the sole possession and effective management, control and regulation of the markets of the cotton association applying for recognition and of the market places of the said cotton association are vested in the said cotton association.

(*4*) The [1][Provincial Government] shall also refuse recognition unless the by-laws submitted by the cotton association under sub-section (*1*) shall have been published in the [2][*Official Gazette*] at least one month before the date of such recognition:

Provided that when, in the opinion of the [1][Provincial Government], the conditions precedent to recognition specified in sub-clauses (*a*) and (*b*) of sub-section (*3*) are satisfied in the case of a cotton association applying for recognition under sub-section (*1*) and the by-laws of the said cotton association are similar in all other material respects to the articles and by-laws of the East India Cotton Association, Limited, deemed or which have been deemed under the provisions of sub-section (*7*) to be by-laws of a recognised cotton association the [1][Provincial Government] may dispense with the publication, required under this sub-section of the by-laws of the cotton association applying for recognition and may give recognition to such association and the by-laws of such association shall then be deemed to be by-laws published under the provisions of this sub-section.

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

(5) When the [1][Provincial Government] has dispensed with the publication of the by-laws of a cotton association and has given recognition to such association under the provisions of the proviso to sub-section (4), such by-laws shall be published in the [2][*Official Gazette*] next following the giving of recognition to such association.

(6) The [1][Provincial Government] may, at any time after having given to a cotton association an opportunity to explain why recognition should not be withdrawn, withdraw the recognition given to the said cotton association and such cotton association shall thereupon cease to be a recognised cotton association.

(7) It is hereby declared that the East India Cotton Association, Limited, is a recognised cotton association for the purposes and subject to the provisions of this Act and the articles and by-laws of the said Association shall, so far as they relate to matters for which by-laws may be made under the provisions of sections 5 and 6, be deemed to be by-laws of a recognised cotton association:

Provided that, if, within such time after the coming into operation of this Act as the [1][Provincial Government] shall by order in writing specify, the said Association shall not have complied with the conditions precedent to recognition specified in clauses (*a*) and (*b*) of sub-section (3), the said association shall cease to be a recognised cotton association and the said articles and by-laws of the said association shall cease to be by-laws of a recognised cotton association:

Explanation.—A grower of cotton shall not include a person who deals in forward contracts.

Recognised association to have Board of Directors: power to make by-laws.

5. (1) [3]* * * * * In every recognised cotton association there shall be a Board of Directors. Subject to the sanction of the [1][Provincial Government], a recognised cotton association may make and may from time to time add to, vary or rescind by-laws providing for—

(*a*) the constitution of the Board of Directors,

(*b*) the powers and duties of the Board of Directors and the manner in which its business shall be conducted,

(*c*) the number and constitution of electoral panels and the representation upon such panels, and

(*d*) the method of appointment of members to the Board of Directors.

(2) By-laws made, added to, varied or rescinded under sub-section (1) shall be laid [4][before each of the Chambers of the Provincial Legislature] at the session [5][thereof] next following and shall be liable to be modified or rescinded by a resolution [6][in which both Chambers concur]. If any by-law is so modified or rescinded, the [1][Provincial Government] may sanction such modified by-law and re-publish the same accordingly or may sanction such rescission.

Power of Board of Directors to make by-laws.

6. (1) The Board of Directors may, subject to the sanction of the [1][Provincial Government], make and, from time to time, add to, vary or rescind by-laws for the regulation and control of transactions in cotton.

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[3] The words "Subject to the provisions of section 9", were deleted by Bom. 17 of 1938, s. 2 and First Schedule.

[4] These words were substituted for the words "upon the table of the Bombay Legislative Council," *ibid.*

[5] The word "thereof" was substituted for the words "of the said Council", *ibid.*

[6] These words were substituted for the words "of the said Council", *ibid.*

(2) In particular and without prejudice to the generality of the foregoing provision such by-laws may provide for—

(*a*) the admission of various classes of members of a recognised cotton association and the exclusion, suspension, expulsion and re-admission of such members;

(*b*) the opening and closing of markets in cotton and the times during which such markets shall be opened or closed and regulating the hours of trade;

(*c*) a clearing house for the periodical settlement of contracts or differences thereunder and for the passing on of delivery orders and for any purpose in connection with options in cotton, and the regulation and maintenance of such clearing house;

(*d*) the number and classes of contracts in respect of which settlements shall be made or differences paid through the clearing house;

(*e*) fixing, altering or postponing settling days;

(*f*) determining and declaring the market rates for cotton of any and every description;

(*g*) the terms, conditions and incidents of contracts and the forms of such contracts as are in writing;

(*h*) regulating the making performance and cancellation of contracts, including contracts between a commission agent and his constituent, or between a broker and his constituent, or between a jethawala or muccadum and his constituent, or between a member and a non-member of a recognised cotton association, and the consequences of insolvency on the part of a seller or buyer or intermediary, the consequences of a breach or omission by a seller or buyer and the rsponsibility of commission agents, muccadums and brokers not parties to such contracts;

(*i*) the prohibition of specified classes or types of dealings in cotton by a member of a recognised cotton association;

(*j*) the settlement of claims and disputes by arbitration and appeals against awards;

(*k*) the levy and recovery of subscriptions, fees, fines and penalties;

(*l*) disciplinary measures against members of a recognised cotton association, including suspension, expulsion, fines and non-monetary penalties, for breach of any by-law made by the Board of Directors;

(*m*) regulating the course of business between parties to contracts in any capacity;

(*n*) the institution, maintenance and control of certified godowns; and

(*o*) regulating the making, performance and cancellation of option in cotton.

(3) If any person committing a breach of any by-law of a recognised cotton association is a company, every director and officer of such company shall also be deemed to have committed such breach, unless he proves that the breach was committed without his knowledge and control.

Publication of by-laws.

7. By-laws made under section 5 or 6 shall be subject to the condition of previous publication and, when sanctioned by the [1][Provincial Government], shall be published in the [2][*Official Gazette*].

Void contracts.

8. (*1*) Save as hereinafter provided in this Act, any contract (whether either party thereto is a member of a recognised cotton association or not) which is entered into after the date on which this Act comes into operation and which is not in accordance with the by-laws of any recognised cotton association shall be void.

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

(*2*) No claim shall be allowed in any court for the recovery of any commission, brokerage, fee or reward in respect of any such contract.

9. [*Supersession of Board of Directors and appointment of Board of Control, its powers and duties*] *Rep. by Bom.* 17 *of* 1938, *s.* 2 *and First Schedule.*

10. [*Prohibition of certain contracts after appointment of the Board of Control*] *Rep. by Bom.* 17 *of* 1938 *s.* 2 *and First Schedule.*

11. No suit, prosecution or other legal proceedings whatsoever shall be entertained in any court against any officer or servant of a recognised cotton association [1]* * * for anything in good faith done or intended to be done in pursuance or execution of this Act or by-laws made thereunder. Bar of suits and proceedings against officers, etc.

12. (*1*) Contacts entered into under the provisions of the Bombay Cotton Contracts Act, 1922 shall, be deemed to be valid, except in so far as they may be inconsistent with any of the provisions of this Act and by-laws made thereunder. Savings.

Bom. XIV of 1922.

(*2*) Forward contracts entered into before the date when this Act comes into operation and which would not have been void under the provisions of the Bombay Cotton Contracts Act, 1922, shall not be deemed to be void merely because they contravene the provisions of this Act and by-laws made thereunder.

Bom. XIV of 1922.

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[1] The words " or Board of Control " were deleted by Bom. 17 of 1938, s. 2 and First Schedule.